

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Michael Genord Washington,	§	
<i>Petitioner,</i>	§	
	§	
vs.	§	Civil Action H-07-1865
	§	
Nathaniel Quarterman, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
<i>Respondent.</i>	§	

MEMORANDUM AND RECOMMENDATION

Petitioner Washington's application for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2254 has been referred to this magistrate judge for report and recommendation. (Dkt. 3). The court recommends that petitioner's application be dismissed as successive.

Washington was convicted in 1983 of murdering his girlfriend's seven year-old daughter and sentenced to 99 years in prison. In this petition, he challenges the failure or refusal of prison officials to consider him for early release to mandatory supervision.

Washington is a serial filer who has raised these claims before in federal court. As United States District Judge Kenneth M. Hoyt explained in *Washington v. Dretke*, Civil Action 05-1033, slip op (S.D. Tex. April 25, 2006), the claims Washington raises are procedurally defaulted, time-barred, and without merit.¹

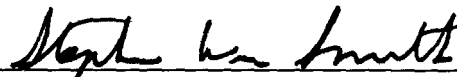
¹ An affidavit of the director of TDCJ parole division (attached to Washington's petition) indicates that Washington is eligible for release to mandatory supervision in 2018. Therefore, contrary to Washington's contentions, the state does not consider him ineligible for mandatory supervision.

Therefore, the court recommends that Washington's petition be dismissed with prejudice. *Rodriguez v. Johnson*, 104 F.3d 694, 696-97 (5th Cir. 1997) (a judge may dismiss a second or successive habeas petition *sua sponte* if it fails to allege new or different grounds for relief and the prior determination was on the merits, or if failure to present new claims in a prior writ was an abuse of the writ).

The court further finds that Washington has not made a substantial showing that he was denied a constitutional right or that it is debatable whether this court is correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Therefore, the court recommends that a certificate of appealability not issue.

The parties have ten days from service of this Memorandum and Recommendation to file written objections. Failure to file timely objections will preclude appellate review of factual findings or legal conclusions, except for plain error. *See* Rule 8(b) of the Rules Governing Section 2254 Cases; 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72.

Signed at Houston, Texas on July 30, 2007.

A handwritten signature in black ink, appearing to read "Stephen Wm. Smith", is written over a horizontal line.

Stephen Wm. Smith
United States Magistrate Judge